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September 2, 2010

*By Facsimile and First-Class Mail*  
The Honorable Malcolm J. Howard  
Senior United States District Judge  
United States District Court  
for the Eastern District of North Carolina  
P.O. Box 5006  
Greenville, North Carolina 27835-5006

Re: *Advanced Internet Technologies, Inc. v. Dell Inc.*, No. 5:07 CV 426H (U.S.D.C.,  
E.D.N.C.)

Dear Judge Howard:

I am writing as counsel for Defendant Dell Inc. ("Dell") in connection with the above-referenced action. I am writing specifically concerning Your Honor's recent order directing the parties to a court-hosted settlement conference before Magistrate-Judge Daniel.

As Your Honor may be aware, Plaintiff has a currently pending discovery sanctions motion against Dell (DE # 305) for which briefing was completed last Friday, August 26. Inasmuch as the sanctions motion concerns an earlier Order of Judge Daniel – as well as subject matter with which Judge Daniel is well acquainted – we respectfully request that Judge Daniel continue his role as the Magistrate Judge in this action, including ruling on the pending discovery motion, in addition to conducting the court-hosted settlement conference. As the District of Maryland confirmed in an opinion just last year, presiding over a settlement conference is "not a legitimate reason to disqualify" a Magistrate Judge from the remainder of the action. *See Proa v. NRT Mid Atlantic Inc.*, 608 F. Supp.2d 690, 694 (D. Md. 2009).

I have conferred with counsel for both Plaintiff and Co-Defendant Dell Financial Services and both are in agreement with the foregoing.

We appreciate Your Honor's attention to this matter and look forward to hearing from Your Honor concerning this matter.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Pressly M. Millen".

cc: Counsel of Record (by email)